

Robert J. Fileccia  
Attorney @ Law

496 Willowbrook Road  
Staten Island, New York 10314

Phone: 718-982-1573  
[Catchaprosecutor@aol.com](mailto:Catchaprosecutor@aol.com)

---

November 1, 2023

Honorable Valerie Figueredo, U.S.M.J.  
United States District Court Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: Villaneuva, et al. vs. G-Net Construction Corp., et al.  
Case: 1:22-cv-07199-JHR

Dear Hon. Magistrate Judge Figueredo,

I represent the defendants. I respectfully request the settlement conference scheduled for November 6 be adjourned pending the outcome of the defendants' Letter Motions to Hon. Jennifer Rearden, Document Nos. 51 and 52 that are *sub judice*. The defendants asked Judge Rearden for a Rule 37.2 informal discovery conference and an extension of the discovery deadline. Under the circumstances, an adjournment of the November 6 settlement conference would permit discovery and the exchange of information that would make the settlement conference much more fruitful. This is the fourth request to reschedule the settlement conference.

In Letter Motions 51 and 52, I informed Judge Rearden, *inter alia*, that

“Five (5) party depositions have not been held and pursuant to Your Honor’s Civil Case Management Plan and Scheduling Order, “Absent an Order of the Court, depositions shall not be held until all parties have responded to initial request for document production.” and

The plaintiffs’ lawyer “Mr. Mizrahi did not serve or email me any documents [in response to the defendants’ document demands]. Instead, he redirected me to some sort of “Dropbox” where my clients and I found exactly 10 pictures and 21 charts that are not labeled and do not correspond to any of the 46 categories in the defendants’ document requests. Even worse, on September 28, Mr. Mizrahi told Hon. Valerie Figueredo that he produced “Nearly fifty-two (52) separate excel worksheets ...” –not 21–, which proves he is withholding a significant part of the discoverable evidence.” [Exhibit 1, page 2].

I also informed Judge Rearden that Mr. Mizrahi routinely fails to respond to my emails and attempts to speak with him, and I provided the court with numerous examples denominated Exhibits 51-4, 51-5, 51-6, 51-7, 51-8, and 51-9.

Pursuant to Your Honor's Individual Rules, on October 30, I asked Mr. Mizrahi for his consent to reschedule the November 6 settlement conference. Exhibit 2. On October 31, Mr. Mizrahi facetiously responded:

*Robert,*

*Exactly what information do you believe you have not received, that you need to receive, before the settlement conference? Exhibit 3.*

Mr. Mizrahi is well aware the plaintiffs must do much more than provide 10 pictures and 21 homemade charts in a vacuum unconnected to any of the defendants' 46 document demands. Mr. Mizrahi did not serve me with any documents but instead redirected me to some sort of "dropbox" that I did not consent to. His endless gamesmanship eviscerates our ability to provide the court with a meaningful pre-settlement conference submission and is preventing the parties from entering into good faith settlement negotiations.

At this point Your Honor, it is impossible for the defendants to honestly evaluate the plaintiffs' position when it is buried under a mountain of subterfuge. We therefore respectfully request the settlement conference be rescheduled pending the outcome of the defendants' Letter Motions Document Nos. 51 and 52 that are *sub judice*. Thank you.

Respectfully submitted,  
/s/ Robert Fileccia  
Robert J. Fileccia

cc: Jason Mizrahi, Esq. by ECF

Application Granted



Valerie Figueredo, U.S.M.J.

DATED: November 2, 2023

The settlement conference is hereby adjourned. The Court will not set another date for the conference at this time and will wait to hear from the parties once they have the information necessary to engage in fruitful settlement discussions.

60 East 42<sup>nd</sup> Street • Suite 4700 • New York, New York 10165  
T: 212.792.0048 • E: [Jason@levinepstein.com](mailto:Jason@levinepstein.com)

September 28, 2023

Via ECF

The Hon. Valerie Figueredo, U.S.M.J.  
U.S. District Court, Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *Villanueva et al v. G-Net Construction Corp. et al*  
**Case No.: 22-cv-07199**

Dear Honorable Magistrate Judge Figueredo:

This law firm represents Plaintiffs Luis Villanueva (“L. Villanueva”), Jose Eduardo Villanueva (“J. Villanueva”) Julio Perez (“Perez”) and Elvin Acevedo (“Acevedo, and collectively with L. Villanueva and J. Villanueva, the “Plaintiffs”) in the above-referenced action.

Pursuant to Your Honor’s Individual Motion Practice Rules, and Your Honor’s Standing Order Applicable to Settlement Conferences this letter respectfully serves to respond to the September 27, 2023 letter motion to adjourn the Settlement Conference [Dckt. No. 48] (the “Defendants’ Letter Motion”) scheduled for October 4, 2023 [see Dckt. No. 47] filed by Defendants G-Net Construction Corp., G-Net Construction Services LLC, G-Net Realty Corporation, (collectively, the “Corporate Defendants”), and Joseph Nativo (the “Individual Defendant”, and with the Corporate Defendants, the “Defendants”).

By way of background, on May 18, 2023, the parties appeared before Your Honor for a telephonic conference to discuss, *inter alia*, the scheduling an in-person Settlement Conference, to be held on August 2, 2023. [See Dckt. Nos. 37, 38]. On July 26, 2023, Defendants filed a letter motion to adjourn the August 2, 2023 settlement conference, on the purported basis of a “delay in discovery” caused by Defendants’ counsel’s medical condition.<sup>1</sup> [See Dckt. No. 41].

As of the date of Defendants’ July 26, 2023 letter motion, Defendants had not propounded **any discovery requests**, despite having nearly **three (3)** months to do so, under the April 11, 2023 Case Management Plan [see Dckt. No. 34].

The Court subsequently adjourned the August 2, 2023 conference to September 18, 2023. [See Dckt. No. 43].

On September 8, 2023, Defendants’ counsel filed **a second application** to adjourn the in-person settlement conference. [See Dckt. No. 46]. The Court subsequently adjourned the September 18, 2023 conference to October 4, 2023. [See Dckt. No. 47].

---

<sup>1</sup> On July 26, 2023 at 7:21 p.m. (*i.e.*, approximately one (1) hour before Defendants’ July 26, 2023 letter motion was filed), Defendants’ counsel emailed the undersigned as follows: “Please consent to an adjournment of the settlement conference on August 2 based upon the delay in discovery that was caused by my medical condition that I recently disclosed to you?”

On September 27, 2023, Defendants' counsel filed *a third application* to adjourn the in-person settlement conference. [See Dckt. No. 48].

As of the date of this filing, Plaintiff's have provided responses to Defendant's interrogatories, and have produced responsive documents consisting of:

1. Nearly fifty-two (52) separate excel spreadsheets containing:
  - a. The first and last names of employees Defendants' employees, by work-week;
  - b. The daily hours worked, per day, for each employee, by work-week.

To be clear, these documents were already in Defendants' possession, custody and control. Plaintiffs do not anticipate making any further document productions.

Plaintiffs have undertaken tremendous efforts to make arrangements to be available for the October 4, 2023 settlement conference, *to wit*: requesting time off of work. Plaintiffs – who are blue-collar workers – cannot continue requesting time off of their work schedules, only for Defendants continue to unilaterally adjourn the Settlement Conference.

## **I. Conclusion**

Without casting aspersions, Defendants have a documented history of delaying the instant proceedings. *See* Plaintiffs' July 26, 2023 *ex parte* Settlement Conference Statement at §§ IV, VIII(a); *see also* Dckt. No. 25 (noting Defendants' failure to comply with this Court's September 20, 2022 Mediation Referral Order [Dckt .No. 14], and continued failure to cure any deficiencies); *see also* Dckt. Nos. 39, 42 (requesting unilateral adjournments of the in-person settlement conference).

It is respectfully requested that Defendants' Letter Motion be denied, and the October 4, 2023 in-person Settlement Conference, proceed as-scheduled.<sup>2</sup>

Thank you, in advance, for your attention to the foregoing.

LEVIN EPSTEIN & ASSOCIATES, P.C.

By: /s/ Jason Mizrahi  
Jason Mizrahi, Esq.  
Joshua D. Levin-Epstein, Esq.  
60 East 42<sup>nd</sup> Street, Suite 4700  
New York, NY 10165  
Tel. No: (212) 792-0048  
Email: [Jason@levinepstein.com](mailto:Jason@levinepstein.com)  
*Attorney for Plaintiffs*

---

<sup>2</sup> As a final aside, the undersigned also wishes to note that Defendants have not asserted an inability to pay, pursuant to § 10 of Your Honor's Standing Order Applicable to Settlement Conferences.

Subject: **Villaneuva vs G-Net Construction 22-CV-07199-JHR**

Date: 10/30/2023 11:50:52 PM Eastern Standard Time

From: catchaprosecutor@aol.com

To: Jason@levinepstein.com, catchaprosecutor@aol.com

Dear Jason,

I intend to write to Hon. Valerie Figueredo tomorrow to reschedule the settlement conference pending the outcome of the defendants' Letter Motions to Hon. Jennifer Rearden, Document Nos. 51 and 52. An adjournment would clearly permit discovery and the exchange of information that would make the conference much more fruitful. See section 9(a)(1) of Judge Figueredo's Standing Order Applicable to Settlement Conferences.

I am required to ask you for your consent pursuant to Judge Figueredo's Individual Rules and Practices. Please let me know as soon as possible. Thank you.

Respectfully, Robert

Subject: **RE: Villaneuva vs G-Net Construction 22-CV-07199-JHR**  
Date: 10/31/2023 10:37:25 AM Eastern Standard Time  
From: Jason@levinepstein.com  
To: catchaprosecutor@aol.com

Robert,

Exactly what information do you believe you have not received, that you need to receive, before the settlement conference?

---

Jason Mizrahi, Esq.  
Levin-Epstein & Associates, P.C.  
60 East 42<sup>nd</sup> Street, Suite 4700  
New York, NY 10165  
Office: (212) 792-0048  
Mobile: (301) 758-7351  
Facsimile: (646) 786-3170  
Email: [Jason@levinepstein.com](mailto:Jason@levinepstein.com)

*The information contained in this transmission, including attachments, is strictly confidential and intended solely for and the use by the intended recipients. This email may be protected by the attorney-client privilege, work-product doctrine, or other applicable legal or professional protections. If you are not the intended recipient, please be notified that any retention, use, disclosure, dissemination, distribution or copying of this email is strictly prohibited, kindly notify us of your inadvertent receipt of the email, by return email, destroy any printouts and delete any electronic copies. Any waiver of any privilege which might otherwise arise from this email being sent to, or received by, an unintended recipient is hereby expressly disclaimed. No attorney-client relationship is created by virtue of a recipients receipt of this email in error. Thank you.*

---

**From:** [catchaprosecutor@aol.com](mailto:catchaprosecutor@aol.com) <catchaprosecutor@aol.com>  
**Sent:** Monday, October 30, 2023 11:51 PM  
**To:** Jason Mizrahi <Jason@levinepstein.com>; [catchaprosecutor@aol.com](mailto:catchaprosecutor@aol.com)  
**Subject:** Villaneuva vs G-Net Construction 22-CV-07199-JHR

Dear Jason,

I intend to write to Hon. Valerie Figueredo tomorrow to reschedule the settlement conference pending the outcome of the defendants' Letter Motions to Hon. Jennifer Rearden, Document Nos. 51 and 52. An adjournment would clearly permit discovery and the exchange of information that would make the conference much more fruitful. See section 9(a)(1) of Judge Figueredo's Standing Order Applicable to Settlement Conferences.

I am required to ask you for your consent pursuant to Judge Figueredo's Individual Rules and Practices. Please let me know as soon as possible. Thank you.

Respectfully, Robert